

REMARKS/ARGUMENTS

The Applicants' representative has reviewed the Examiner's Office Communication of October 18, 2006, in which the Examiner rejects claims 1-6, 8, 12, 14-22, and 30-32 under 35 U.S.C. § 103(a) as being obvious over Maust (U.S. Patent No. 6,267,113) in view of Davis (U.S. Patent No. 6,640,803), rejects claims 7 and 9-11 under 35 U.S.C. § 103(a) as being obvious over Maust in view of Davis and further in view of Hussong (U.S. Patent No. 5,738, 084), and rejects claims 13 and 23-29 under 35 U.S.C. § 103(a) as being obvious over Maust in view of David and further in view of Hussong, Wilk (U.S. Patent No. 6,354, 831), or Shimek (U.S. Patent No. 5,601,073).

In response to the Examiner's rejection of these claims, the Applicants hereby amend the independent claims 1, 17, and 30 and dependent claims 8, 20 and 22, as outlined below:

Claim 1 now requires the fireplace housing to have at least one opening in at least one side and the side of the fireplace to have a first lip near an upper edge of the opening and a second lip near a lower edge of the opening. Furthermore, the removable side panel which is configured to cover the opening includes a first flange at an upper edge of the side panel and a second flange at a lower edge of the side panel and is configured to be slidingly movable between a first position and a second position. When the removable side panel is placed in the first position, the first flange engages with the first lip and the second flange engages with the second lip to prevent outwardly movement of the side panel and an inside surface of the removable side panel engaging with an outside surface of the side of the fireplace to prevent

inwardly movement of the side panel. Finally, when the removable side panel is placed in the second position, the second flange is no longer engaged with the second lip whereby the removable side panel can be tilted outward from the lower edge.

Claim 8 now requires the opening to have a first dimension along an axis and the side panel to a second dimension along the axis which is greater than the first dimension.

Claim 17 now calls for the plurality of side panels to each have a first flange at an upper edge of the side panel and a second flange at a lower edge of the side panel. The first and second flanges are configured to slidably engage with the fireplace housing to connect the side panels to the housing in the first position.

Claim 20 now requires the opening to have a first dimension along an axis and the side panel to a second dimension along the axis which is greater than the first dimension.

Claim 22 now calls for each of the openings in the fireplace to have a width, a first flange receiving member, and a second flange receiving member. The width of the opening is less than a width of the side panels to prevent the side panel from passing through the opening. The upper flange receiving member is positioned near an upper edge of the opening and is configured to receive the first flange. The lower flange receiving member is positioned near a lower edge of the opening and is configured to receive the second flange.

Claim 30 now requires the removable side panel to cover an opening in the housing when connected to the housing, whereby the removable side panel is configured to engage with both an upper portion and a lower portion of the opening.

Neither Maust nor Davis disclose the above mentioned limitations. Although Davis does disclose a pin member (reference numeral 32) at a lower edge of the access door which engages with the fireplace, Davis does not disclose any member at an upper edge for connecting or retaining the door to the fireplace. Instead, the access doors of Davis rely entirely on the pin members to hold the door in place. Davis discloses essentially two embodiments of the access door, the first represented by Figures 4A and 4B and the second represented by Figures 5A and 5B.

The first embodiment of Davis includes a door that can be tilted outward from the fireplace to allow access to the combustion chamber and relies solely upon gravity to hold the door flush against the fireplace (see Davis, col. 3, lines 35-43). This configuration may present some problems. Depending upon the slope of the vertical supports and the weight and surface area of the side panel, it is possible that gravity alone may not be enough to hold the door flush against the fireplace when the door is subjected to inclement weather conditions.

The second embodiment of Davis includes a downwardly extending surface (reference numeral 33) to prevent angular rotation of the access door 30. While the downwardly extending surface may be sufficient to hold the door flush against the fireplace during windy conditions, the second embodiment still does not include any member at an upper surface for holding the door in place. The lack of an upper flange member may present problems if the user grasps the door handle and attempts to tilt the door outwardly. Given the great distance between the door handle and the pin members, pulling on the handle would create a significant bending moment about the

pin member. Depending upon the material and thickness of the access door, it is possible that the pin members could become bent under such conditions.

The problems of Davis, including those described above, are mitigated by the presence of a flange at an upper edge of the door, as called for by some of the above mentioned claims. For this and the other above mentioned reasons, the Applicants believe that the claims are sufficiently distinguished from the prior art and are in condition for allowance. **Applicant believes that a one month extension of time is required in connection with this filing. You are hereby authorized to deduct the required amount from our Deposit Account No. 02-0400 (Baker & McKenzie). When identifying such a withdrawal, please use the Attorney Docket Number WEB-961.**

February 16, 2007

Respectfully,

BAKER & MCKENZIE LLP
130 E. Randolph Drive
Chicago, IL 60601
ph: +1 312 861 8024
fax: +1 312 698 2420



Daniel A. Tallitsch
Reg. No. 55,821